

**Town of Cushing
Tower ordinance**

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SECTION 1: PURPOSE AND APPLICATION

This ordinance provides a process and standards for review and approval of the location, access, lighting and signage of towers consisting of vertical structure containing no enclosed floor areas that are more than 35 feet in height, including windmills, wind turbines and telecommunication towers. It is intended to protect the safety and welfare of the people of the Town of Cushing.

SECTION 2: AUTHORITY

This ordinance is authorized under the authority granted to the Town by the statutes of the State Maine, and in accordance with the provisions of 30-A M.R.S.A. §§ 3001, 4312 et seq.

SECTION 3: REVIEW AND APPROVAL PROCESS

3.1 Approval required

a. No person shall construct or expand a tower facility without approval of the Code Enforcement Officer (CEO). The CEO shall review applications and make written findings concerning the proposed facility's compliance with this ordinance.

b. Approval is valid for three years. On submittal of evidence to the Code Enforcement Officer, not less than fourteen days prior to conclusion of any approval term, that all emissions from the tower comply with FCC emission standards, the CEO shall grant a [three-year] extension of the approval.

3.2 Application procedure

a. Applicants shall meet with the CEO before filing an application to review the ordinance provisions, submittal requirements and review process.

b. When an applicant submits materials required for review, together with any prescribed fee, the CEO shall issue the applicant a dated receipt. Within 7 days the CEO shall act on any request for a waiver, shall determine whether the application meets the submittal requirements, and shall notify the applicant in writing of his findings.

c. If the application is incomplete, the CEO shall notify the applicant of the specific information that is required to complete the application.

d. If the application is complete, the CEO shall so notify the applicant.

e. Within 30 days of receiving a complete application, the CEO shall decide to approve, approve with conditions, or deny the application and shall so inform the applicant in writing, together with the findings on which the decision is based. The CEO shall approve the application if it complies with the provisions of Section 4 of this ordinance.

3.3 Submittal requirements

The following materials shall be submitted as part of the application:

a. Documentation of the applicant's right, title and interest in the property where the facility is proposed to be located, including the name and address of the property owner and the applicant.

b. A copy of any FCC license for the facility.

c. A U.S.G.S. topographic map showing the property on which the proposed facility is to be located.

d. A site boundary survey performed by a land surveyor licensed in the State of Maine, showing the property, its boundaries, the location and height of the proposed facility, its setbacks from property lines, and the means of access to it.

e. A written description of the proposed facility and its use and users.

f. Details of any components providing lighting and deterrence of public access.

g. Evidence that emissions from equipment on the tower will comply with FCC emission standards, including those intended to avoid health hazards.

3.4 Submittal waiver

On receipt of a written request submitted at the time of application, the CEO may grant a waiver of a submittal requirement based on a finding, documented in writing, that due to special circumstances of the particular site, the information is not required to determine compliance with the standards of this ordinance.

3.5 Application fee

An application for approval shall include a fee of \$100. The application shall not be considered complete until it is paid.

SECTION 4: STANDARDS OF REVIEW

To obtain approval, an application must comply with the following standards:

4.1 Right title and interest

The applicant shall provide evidence of sufficient right title and interest to locate the facility in the proposed location.

4.2 Setback

The vertical structure shall be set back not less than 110% of its height from

a. all property lines, unless restrictive easements on abutting parcels secure the required setback.

b. overhead utility lines unless written permission is obtained from the utility.

4.3 Access

a. Access shall be provided to the facility suitable to its needs for construction, maintenance, repair and possible removal.

b. A telecommunication tower installation shall include measures to assure deterrence of unauthorized public access.

4.4 Lighting

Any proposed lighting not required by the Federal Aviation Agency shall be directed downward and shielded to retain light within the boundaries of the site.

4.5 Signage

Towers shall display no signs or graphic images.

SECTION 5: AMENDMENT OF AN APPROVED APPLICATION

Changes to an approved application shall be approved by the CEO in accordance with Section 3.

SECTION 6: WAIVER OF STANDARDS

The Code Enforcement Officer may make a written finding that special circumstances of a particular site warrant a waiver of a standard in Section 4, provided that public safety and welfare are protected.

SECTION 7: APPEAL

Any aggrieved party having proper standing may appeal a decision of the CEO under this ordinance to the Cushing Appeals Board within thirty days of the date the CEO issues a written order of its decision.

SECTION 8: VIOLATIONS AND ENFORCEMENT

Violations of this ordinance are punishable in accordance with the provisions of 30-A M.R.S.A. § 4452. Violators shall be subject to a fine of a minimum of \$100.00 for each violation, up to a maximum of \$2500, or up to \$25,000 if the applicant has had a previous conviction within 2 years. Each day that a violation continues shall constitute a separate violation.

SECTION 9: CONFLICTS

Whenever a provision of this ordinance conflicts with or is inconsistent with a provision of any other ordinance, regulation or statute administered by the Town or State, the more restrictive provision shall control.

SECTION 10: SEVERABILITY

The invalidity of any section, subsection, clause, phrase or word of this ordinance shall not be held to invalidate any other section, subsection, paragraph, sentence, clause, phrase or word of this ordinance.

SECTION 11: AMENDMENT

This ordinance may be amended by the voters of the Town of Cushing following a duly publicized public hearing.

Adopted_____